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87-1-257. River restoration program. (1) The department shall administer a river restoration program.

(2) The program may consist of physical projects to improve rivers and their associated lands in order to conserve and enhance fish and wildlife habitat, including but not limited to the leasing of water rights under 85-2-436.

(3) The department shall work cooperatively with individuals, conservation districts, and state, local, private, tribal, and federal organizations to achieve the goals of the program and may contract with private organizations to implement specific river restoration projects.

(4) The department shall present projects to the local conservation district for review and recommendations and obtain any applicable permits.

(5) The department shall receive the consent of the landowner or lessee of any associated lands before initiating physical projects on these lands.

(6) A project conducted under the program may not restrict or interfere with the exercise of any water right.

History: En. Sec. 3, Ch. 601, L. 1989; amd. Sec. 3, Ch. 175, L. 1993.

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87-1-272. (Temporary) Future fisheries improvement program -- funding priority -- reports required. (1) In order to enhance future fisheries through natural reproduction, the department shall establish and implement a statewide voluntary program that promotes fishery habitats and spawning areas for the rivers, streams, and lakes of Montana's fisheries.

(2) The department shall by April 1, 1996, and thereafter when projects are suggested by the future fisheries review panel, through a public hearing process and with the approval of the commission, prioritize projects that have been recommended by the review panel to be funded. Emphasis must be given to projects that enhance the historic habitat of native fish species. The department shall fund and implement the program regarding the long-term enhancement of streams and streambanks, instream flows, water leasing, lease or purchase of stored water, and other voluntary programs that deal with wild fish and aquatic habitats. A project conducted under the future fisheries improvement program may not restrict or interfere with the exercise of any water rights or property rights of the owners of streambeds and property adjacent to streambeds, streambanks, and lakes. The fact that a program project has been completed on private property does not create any right of public access to the private property unless that right is granted voluntarily by the property owner.

(3) The department shall work in cooperation with private landowners, conservation districts, irrigation districts, local officials, anglers, and other citizens to implement the future fisheries improvement program. Any department employee who is employed under this section to facilitate contact with landowners must have experience in commercial or irrigated agriculture. The department shall encourage the use of volunteer labor and grants, matching grants, and private donations to accomplish program purposes. The department may use contracted services:

- (a) for negotiations with landowners, local officials, citizens, and others;
- (b) for coordination with other agencies that may be involved in projects conducted under this section; and
- (c) to perform and supervise project work.

(4) Funds expended under this section may be used only for projects for the protection of the fisheries resource that have been identified by the review panel established in 87-1-273 and approved by the commission and may not be used for the acquisition of any interest in land.

(5) (a) The department shall report to the commission on the progress of the future fisheries improvement program every 12 months and post a copy of the report on a state electronic access system to ensure public access to the report.

(b) The department shall also present a detailed report to each regular session of the legislature on the progress of the future fisheries improvement program. The legislative report must include the department's program activities and expenses since the last report and the project schedules and anticipated expenses for the ensuing 10 years' implementation of the future fisheries improvement program.

(c) In order to implement 87-1-273 and this section, the department may expend revenue from the future fisheries improvement program for up to two additional full-time employees. (*Terminates July 1, 2009--sec. 6, Ch. 529, L. 1999.*)

History: En. Sec. 1, Ch. 463, L. 1995; amd. Sec. 5, Ch. 440, L. 1997.

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87-1-283. (Temporary) Bull trout and cutthroat trout enhancement program. (1) In order to enhance bull trout and cutthroat trout populations through habitat restoration, reductions in species competition, and natural reproduction, the department shall, through its future fisheries improvement program, restore habitats and spawning areas and reduce species competition in rivers, lakes, and streams for Montana's bull trout and cutthroat trout.

(2) In order to implement this section, the department may expend revenue from the bull trout and cutthroat trout enhancement program for one additional full-time employee and one contractor to assist the review panel.

(3) The department shall also work with the department of transportation to implement bull trout and cutthroat trout enhancement by providing annual updates to the state transportation improvement program regarding possible additions to projects that will benefit the enhancement effort. State transportation improvement plan funds expended for bull trout and cutthroat trout must be accounted for separately and reported annually. *(Terminates July 1, 2009--sec. 9, Ch. 529, L. 1999.)*

History: En. Sec. 1, Ch. 529, L. 1999.

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15-38-202. (Temporary) Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All money paid into the resource indemnity trust fund must be invested at the discretion of the board of investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated and expended until the fund balance, excluding unrealized gains and losses, reaches \$100 million. After the fund balance reaches \$100 million, all net earnings, excluding unrealized gains and losses, and all receipts may be appropriated by the legislature and expended, provided that the fund balance, excluding unrealized gains and losses, may never be less than \$100 million.

(2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource indemnity trust fund:

(i) \$240,000, which is statutorily appropriated, as provided in 17-7-502, to be deposited into the renewable resource grant and loan program state special revenue account to support the operations of the environmental science-water quality instructional programs at Montana state university-northern, to be used for support costs, for matching funds necessary to attract additional funds to further expand statewide impact, and for enhancement of the facilities related to the programs. Any amount of the appropriation in this subsection (2)(a)(i) that is not pledged to repay bonds issued prior to January 1, 1999, may be deposited in a permanent fund account, the income from which may be used for the purposes provided in this subsection.

(ii) \$2 million to be deposited into the renewable resource grant and loan program state special revenue account, created by 85-1-604, for the purpose of making grants;

(iii) for the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, \$1.2 million and for fiscal years beginning on or after July 1, 2005, \$1.5 million to be deposited into the reclamation and development grants special revenue account, created by 90-2-1104, for the purpose of making grants;

(iv) \$300,000 to be deposited into the ground water assessment account created by 85-2-905; and

(v) for the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, \$350,000 and for fiscal years beginning on or after July 1, 2005, \$500,000 to the department of fish, wildlife, and parks for the purposes of 87-1-283. The future fisheries review panel shall approve and fund qualified mineral reclamation projects before other types of qualified projects.

(b) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101;

(ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161; and

(iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(c) The remainder of the interest income is allocated as follows:

(i) For the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, 25.5% and for fiscal years beginning on or after July 1, 2005, 30% of the interest income of the resource indemnity trust fund must be allocated to the renewable resource grant and loan program state special revenue account created by 85-1-604.

Appropriations and projects: Appropriations to the program since program inception are summarized in Table 1. This includes \$510,000 earmarked by the 1995 legislature for projects to enhance fisheries in the Tongue River; an additional \$275,000 was appropriated towards this purpose by the 1999 legislature but these latter dollars were not Future Fisheries Program funds. All of these funds were used to construct a fish screen on the T&Y Diversion, to prevent the loss of fish down the diversion ditch. The Tongue River Project was jointly administered by the state of Montana, the Northern Cheyenne Tribe, and the United States Bureau of Reclamation. To date the Future Fisheries Review Panel and Fish, Wildlife and Parks Commission have fully or partially approved funding for 562 projects; of these, 64 projects have been cancelled for various reasons.

Table 1. Legislative appropriations to the Future Fisheries program and the Bull Trout and Cutthroat Trout Enhancement Program (BT/CTT).

Session	Fund and Subclass	Amount
1995	General License, 26306, E125	\$510,000
	River Restoration, HB5, 26301	290,000
	General License, HB349, 02409, ET30	220,000
	General License, HB349, 02409, ET2	1,250,000
1997	River Restoration, 02149, 28466	70,000
	General License, 02409, E131	1,310,000
1999	River Restoration, 02149, E190	300,000
	General License, 02409, E190	1,170,000
	General License, HB647, 02409, 38011 (BT/CTT)	750,000 ^a
2001	River Restoration, 02149, EI115	260,000
	General License, 02409, EI115	750,000
	RIT, 02002, EI115 (BT/CTT)	850,000
2003	River Restoration, 02149, EI131	210,000
	RIT, 02202, EI131 (BT/CTT)	700,000
2005	River Restoration, 02149, EI150	190,000
	RIT, 02022, EI150 (BT/CTT)	1,000,000

^a

Beginning in FY-2000, this appropriation was used to pay for the one FTE and operating expenses that are eligible for this source of funding. Additionally, \$198,465 has been spent on